

A More 'Child-Centred' System? Child Protection Social Workers' Willingness to Employ Discretion

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Abstract

The Munro Review highlighted obstacles hindering the realisation of an 'effective' and 'child-centred' English child protection system, including the 'risk' associated with the social worker's discretionary space. The review called for reform to enable practicing social workers to exercise their discretion in the best interests of the individual child. This article reports on the results of an iterative qualitative mixed-methods case study of one local authority child protection team, utilising focus group, questionnaire, interview, observation, documentary analysis and critical realist grounded theory, to explore whether, on encountering a discretionary space, social workers were willing to employ discretion, and the factors influencing this decision. The main findings included that social workers were experiencing discretionary space in an entrepreneurial, de jure and de facto sense and that practitioners were more likely to choose to exercise their discretion within the managerially sanctioned discretionary space. Whilst the research does offer some evidence in favour of Munro's image for discretion within the system, it also suggests that further efforts may be required to better imbed 'sanctioned' discretionary space into local policy and procedures so that child protection social workers can more consistently employ their discretion in the interests of the individual child.

Keywords: child protection, discretion, discretionary choice, discretionary space, Munro Review

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Introduction

The literature concerned with the public service worker's discretion has tended to focus on the extent of their discretionary space to make decisions and take actions independently from other actors (Molander, 2016). Similar themes prevail in commentary pertaining to statutory child protection social work, as brought forth in the Munro Review of Child Protection (Munro, 2010, 2011a,b). Here, Munro, in echoing previous assertions about the 'erosion' of discretion (Munro, 2005, p. 13), positions the lack of space and value placed in social worker discretion as a most pressing challenge facing the English child protection system; limiting its ability to operate 'effective[ly]' in the best interests of the individual child (Munro, 2011b, p. 23). A more 'child-centred' system (p. 1), she asserts, would place better value in, and thus enable, the discretionary space of the social worker.

However, another key feature of this 'child-centred' system according to Munro (2011b) is that on encountering a discretionary space, a social worker is 'willing' to employ their discretion in the interests of the individual child (p. 43). This position moves beyond previous assertions that to have a discretionary space is to engage in discretionary behaviour (e.g. Howe, 1986, 1991; Munro, 2005). It also recognises the importance of agency in the process (Evans, 2010), and that social workers can choose whether to engage in discretionary decision-making and/or action-taking (Lipsky, 2010; Evans, 2010, 2013, 2016).

Defining 'discretionary space'

Within the social work literature, there is a tendency not to define 'discretion', despite it often being *the* central concept of the discussion and analysis (e.g. Howe, 1986, 1991; Baldwin, 2000; Munro, 2004, 2005, 2009; Lipsky, 2010). This is problematic in the sense that 'discretion' can take different forms and can mean different things in different contexts (Evans, 2010).

Molander (2016) suggests that 'discretion', in one sense, can involve the possession of a 'negative liberty', that is, an 'area for choice and action consisting of those options that are neither forbidden nor prescribed' (p. 9). Thus, it affords the bearer the freedom to decide and act without interference by other persons, including external restraint (Molander, 2016). Broadly speaking, therefore, to have discretion is to 'possess a restricted and protected space where [there is] a certain kind of liberty to judge, decide and act' (p. 9). Furthermore, Molander (2016) distinguishes between 'discretionary space' and 'discretionary reasoning' (p. 4), or to use Robert Alexy's (2002, p. 393) terms, discretion in a 'structural sense' and discretion in an 'epistemic sense'.

Such a distinction, [Molander \(2016\)](#) asserts, is critical in any discussion about how to understand a concept like discretion, especially when undertaking empirical research on the subject. He suggests that ‘epistemically’, discretion is a form of reasoning that results in judgements about the properties of various kinds of objects under conditions of indeterminacy (p. 10), whilst ‘structurally’, discretion is the space for decision making and action-taking based on discretionary judgements (p. 10). It is the latter of these two notions that forms the focus of this study, where the following definitions were developed from the participants own understanding of the terms: ‘Discretion’ is ‘the freedom to decide upon and take a course of action, independently from the oversight, and direction of others (for example a manager)’; ‘Discretionary space’ is ‘the space, area or opportunity to employ discretion’ ([Murphy, 2019](#), p. 171).

Different discretionary spaces

Also locating the focus of his analysis in the structural sense of the term, [Evans \(2010\)](#) offers a distinction between the freedom to act that arises due to circumstance, and a freedom that is formally granted by those with power to do so (e.g. a hierarchical manager). ‘De facto’ discretion, [Evans \(2010: 33\)](#) asserts, is ‘the power to act, though not officially recognised’, whereas ‘de jure’ discretion is ‘having the power to decide as an officially recognised entitlement’. A further distinction lies in the subtleties of finding a capacity to act, as opposed to be given formal authority to do so ([Evans, 2010](#)). A de facto discretionary space arises when a practitioner encounters an opportunity to act due to an absence of external direction or control ([Evans, 2010](#)). Conversely, a de jure discretionary space implies that the practitioner has official recognition of a right (or entitlement) to decide on a course of action, including inaction ([Evans, 2010](#)).

Developing this idea further, [Evans \(2016\)](#) considers the role of management in granting discretionary space to social workers. He observes that in granting formal discretionary space, managers must accept a level of accountability—in the sense that they could be held responsible—for the decisions and actions that occur within that space. However, he also asserts that managers who favour discretion for efficiency’s sake, often prefer a more ‘informal’ (p. 608) discretionary space, one where social worker discretion is ‘covert[ly]’ and ‘unofficially’ promoted (p. 609). [Evans \(2016, p. 609\)](#) identifies this as an ‘entrepreneurial’ space; one that is characterised by surreptitious encouragement—sometimes through the medium of ‘nods and winks’ (p. 609)—to be ‘flexible’ with, or else even ignore, policy and procedures’ (p. 609), thereby allowing social workers to ‘cut corners’ (p. 611) and ‘tak[e] risks’ in pursuit of a ‘desired outcome’ (p. 609).

Evans (2016) observes that for managers, providing this ‘entrepreneurial space’ allows them to maintain a formal position of policy compliance (thus reducing the risk of individual accountability), whilst enabling effective service provision in real terms. Indeed, entrepreneurial discretion in Evans’ (2016) study was understood as unofficial policy—it existed, and was expected, but was not acknowledged in any formal policy documents. This does, however, present particular challenges for the social worker, both in respect of recognising where they have discretionary freedom and in choosing whether they will use this freedom (Evans, 2016).

Aims of the study

Notably, the existing social work literature has largely focussed on discussing ‘discretion’ in the context of statutory adult service provision (e.g. Baldwin, 2000; Evans, 2010, 2013, 2016; Ellis, 2011, 2014). Where ‘discretion’ has been considered in the context of children’s social work (e.g. Howe, 1986, 1991; Munro, 2004, 2005, 2009; Wastell et al., 2010), there has been neither explicit reference to different types of discretionary space available nor how these might influence whether social workers choose to employ their discretion.

Furthermore, despite Munro’s (2011b) calls for ‘regular reviews of progress’ (p.22) relative to achieving her notion of a ‘child-centred’ and ‘effective’ system—at the centre of which was discretion in the interests of the child—there has been a notable absence of any subsequent enquiry seeking to explore the extent of social worker discretion within the contemporary English child protection system.

This article aims to address both issues. It reports on the findings of an ethnographic case study of one statutory child protection team, highlighting the extent to which practicing social workers were choosing to employ their discretion, whilst elucidating how different factors, including the type of discretionary space available, informed this choice. Specifically, the article responds to two research questions:

- where were social workers willing to employ discretion? and
- what other factors were influencing this choice?

Methods

Methodological framework

The methodological framework for this research was that of critical realist ethnography. The critical realist element—drawing largely on the writings of Bhaskar (1978, 2014)—brought forth the aim of identifying both the social workers’ discretionary ‘tendencies’ but also *why* these

tendencies had been able to manifest (Bhaskar, 1978). This aligns with that which Munro (2011b) advocated in her review of the child protection system; namely, that researchers should not be satisfied with descriptive accounts of the system, but should seek to understand and explain *why* the system is functioning as it is—with a particular emphasis on identifying and challenging any systemic factors which might be inhibiting the ‘child-centred’ practice that the review endorsed.

Setting

The research setting for the ethnography was a local authority child protection team (CPT), situated within a statutory Children’s Services Department of a council located in the North of England. The local authority itself comprised several small towns situated across mainly rural terrain. It served a population of approximately 200,000 of whom close to 50,000 were children.

Sample

The sampling approach assumed a mixture of ‘purposive’ and ‘criterion’ techniques: ‘Purposive’ in that the focus was on the CPT, specifically because the remit of the team—the implementation of child protection statutory guidance and legislation—made it the most pertinent focus for achieving the research aims. ‘Criterion’, in that the sample consisted of only those practitioners who had been employed on the CPT as either a social worker or team manager for at least 6 months—the rationale being that a different role, or less experience, could restrict a prospective participant’s ability to comment on the issues that were the focus of the study.

Every member of staff who met these criteria were invited to participate in the study, and in total, twenty-five different CPT staff—comprising twenty-one social workers and four team managers—participated in the focus groups (ten participants); questionnaire (eighteen participants) and interviews (eight participants). Such was their limited time availability that the team managers only participated within the focus group stage. However, six of the twenty-one social workers participated in two stages (e.g. the focus group and questionnaire), but none in three stages.

The participants all held either a diploma, bachelor’s or master’s degree in social work. Their age ranged from twenty-four to forty-seven years old; all had ‘English’ as their first language; all bar one classified themselves as ‘White British’; and twenty-three were identified as ‘female’, whilst two identified as ‘male’.

Methods used

In line with the research's ethnographic framework, document analysis and observation took place concurrently, but the formal data collection was divided into three distinct stages, aligned to the research's iterative qualitative mixed-methods design, with an aim of enabling the retroductive processes central to achieving a critical realist enquiry (Bhaskar, 1978, 2014).

'Stage 1' comprised two focus groups facilitated by the author. These explored how the CPT staff constructed notions of 'discretion' and 'discretionary space' and developed definitions of the two terms as the basis for further exploration within the next stages of enquiry. 'Stage 2' constituted an online questionnaire, developed from the themes derived from the focus groups (thereby enabling an early comparative element). The findings arising from the questionnaire were used to develop the areas for exploration in 'Stage 3', in which the author conducted one-to-one interviews with individual social workers. The remit of the interviews was to explore in the most depth, the conditions in which discretionary space and choice manifested, and the underlying causal mechanisms at play. Data analysis was conducted throughout, utilising Kempster and Parry's (2014, p. 109) 'Critical Realist Grounded Theory' model.

Ethics

The research received ethical approval from Manchester Metropolitan University's Academic Ethics Committee in November 2014, and data collection took place over eighteen months culminating in the summer of 2016. All participants provided formal written consent to participate in the research.

Results

Where were social workers willing to employ discretion?

The research found that there was a general tendency for social workers to be 'willing' to employ discretion in the 'officially recognised' and 'formally granted' *de jure* discretionary spaces that they encountered (e.g. diary management and 'logistical' case management) (Murphy, 2019). Conversely, the social workers tended to be 'unwilling' to employ discretion in the *de facto* spaces that emerged (e.g. non-compliance with departmental 'must-do' timescales and 'time-sensitive' but 'non-emergency' decisions encountered in the field) (Murphy, 2019). In explaining these

preferences, the social workers emphasised that the ‘official’ and ‘formal’ nature of the former gave them a ‘confidence’ to employ discretion:

Because it is recognised in official policy, I am confident that I can use discretion (Social Worker 6, Interview).

Conversely, the ‘unofficial’ and ‘informal’ means with which a *de facto* space emerged was aligned to a general lack of willingness to employ discretion:

I wouldn’t use my discretion in that [*de facto*] context ... because that opportunity has not been officially recognised ... I am not willing to [employ discretion] until ... a manager says: ‘ok you can ...’ (Social Worker 4, Interview).

However, as intimated in this last account, the social workers’ willingness was closely aligned to what they described as the manager’s ‘endorsement’ of the discretionary space—namely, their manager’s preparedness to ‘grant’ the social worker space to employ discretion. Indeed, the study found that the social workers were generally willing to employ their discretion whether this ‘endorsement’ existed in the ‘official’ and ‘formal’ sense, or the ‘unofficial’ and ‘informal’ contexts which constituted those ‘entrepreneurial’ discretionary spaces (e.g. decisions to spend their own money to help a service user, or decisions to work over contracted hours without additional pay) (Murphy, 2019). In this regard, the study found that the manager’s ‘endorsement’ of the space was a greater influence on the social worker’s willingness than whether the space had been ‘officially’ and ‘formally’ recognised in policy documents:

The important issue is not so much what the policy says, but my manager’s position ... [we both] know that discretion is needed not just in those official [discretionary spaces], but the unofficial ones ... it’s the only way that we can work effectively (Social Worker 1, Interview).

As intimated here, the social workers generally believed that their manager’s endorsement of the discretionary space emerged from a shared understanding that social worker discretion could enable more ‘effective’ service provision (see also Lipsky, 2010; Evans, 2016). Furthermore, they indicated that their willingness to employ discretion in these contexts was on the understanding that the manager’s ‘endorsement’ served as an ‘informal contract’ between manager and worker:

I think that there is that understanding between us that I [will] use discretion but only because my manager would support me if others later questioned my decisions (Social Worker 8, Interview).

In contrast to those assertions that the risk of discretion lies in the propensity for ‘blame-shift’—particularly in the entrepreneurial space (Evans, 2016)—the social workers in this study generally expressed a sense of ‘trust’ in their line manager to ‘have their back’ on occasions

where discretion had been used in discretionary spaces ‘granted’ by the manager:

I can trust him to have my back if we have agreed that I can use my discretion ... if that was to change ... then I probably would be less willing to use discretion (Social Worker 7, Interview).

Furthermore, the social workers believed that by ‘endorsing’ (‘granting’) a discretionary space, a manager would, by implication, be willing to ‘share accountability’ (in the sense of a preparedness to take some responsibility) for the outcomes, which emerged from the discretionary behaviour that took place there. This was something which the social workers generally considered to be ‘fundamental’ to their willingness to employ discretion:

It comes down to that knowledge that the manager will share some accountability for that decision ... without that knowledge then I wouldn’t choose to use discretion ... (Social Worker 4, Interview).

Indeed, the social workers aligned their general ‘unwillingness’ to employ discretion in the de facto discretionary contexts, to the understanding that without a manager’s ‘endorsement’, they were liable to be held ‘individually accountable’ (and thus responsible) for any negative outcome which might arise from a discretionary decision or action:

In those situations, I am solely accountable for my decisions and actions, and that is the basis of [my] reluctance to employ discretion ... there is too much personal risk (Social Worker 5, Interview).

What were the other influencing factors?

Within the study, there were other occasions where the social worker’s willingness to employ discretion did not align with the general tendencies of the group. Most often, these ‘exceptions’ were attributed to ‘other influencing factors’, best organised into three areas:

- knowledge of the child, it’s family and situation;
- experience of, and in, similar decision-making scenarios; and
- other personal influences (Murphy, 2019).

Knowledge of the child, its family and situation

A recurring theme within the social workers’ accounts was that their willingness to employ discretion was, in specific contexts, influenced by the knowledge that they held about the child and its family:

Before deciding whether I will use discretion I think about my knowledge of the child ... and whether in that context I have enough, or

the right type ... to be willing to make a decision (Social Worker 4, Questionnaire).

In this regard, the author understood the 'type' of knowledge which the social workers considered valuable, to include: of the different 'personalities, characteristics and history' of the family members concerned; of the 'wishes and feelings' or else the 'needs of the individual children' being considered; and of the 'risks, strengths and protective factors' that were understood to be specific to the case:

I need to know about the different actors ... mum, dad, grandparents ... what the children's wishes are ... what the risks are ... (Social Worker 6, Interview).

The social workers explained that at a basic level, their willingness to employ discretion tended to improve the more they knew about a child, its family and situation, on the basis that they felt 'better equipped' to make decisions 'in the interest of the child':

If I know what the children want ... need ... the risks, the history ... then yes, I would be more willing to use discretion because I know the case ... I am in a better position to decide what is best for the child (Social Worker 7, Interview).

However, in some of the more nuanced accounts, the emphasis placed on this knowledge differed according to the context of the social work task and decision required:

Knowing about the family can be useful ... but it's not always necessary ... for example, walking into a house and meeting a family for the first time ... I don't necessarily know that much about them, but I don't need to ... I know that the house is too cold; that mum says that she has no money to heat the property; and that the children will suffer if I don't give her some [money] (Social Worker 2, Interview).

Furthermore, the evidence highlighted that it was not only whether the social workers possessed this knowledge, but also the nature of the knowledge held that influenced their willingness to employ discretion:

I know loads about the family, but for certain decisions I am still not prepared to use discretion ... For example, the knowledge was that a child had epilepsy and was prone to fits ... the decision was about whether they could travel alone ... I wasn't willing to use discretion, but instead deferred that decision to the specialist doctor as their expertise made them better placed to decide (Social Worker 4, Interview).

In addition, the nature of the knowledge could also inform the type of discretionary decision or action taken:

If you knew that there had not been any domestic violence incidents for 9 months, would this effect your willingness to employ discretion ...? (Interviewer).

Yes definitely ... on that basis, I would be more likely to say to him that he could come home for Christmas ... (Social Worker 8, Interview).

What if you also knew that ... there is a history of violence on Christmas day? (Interviewer).

Oh [laughs], ok well yeah, I will still make the decision, but now the decision is different ... I would have to say 'no', he can't come home (Social Worker 8, Interview).

Ultimately, the study highlighted that how the social worker interpreted their knowledge of the child, its family and situation, could explain why, on some occasions, the willingness to employ discretion differed from that which was the general tendency of the group:

Does it matter if the time sensitive decision is an emergency one or not? (Interviewer).

For me personally no ... I know the case better than [my manager], so I choose to use discretion ... instead of waiting to ask her about it (Social Worker 2, Interview).

Experience of, and in, similar decision-making scenarios

Another factor identified as influencing the social workers' willingness to employ discretion was having a previous experience of using discretion 'in similar decision-making scenarios' (Murphy, 2019). Indeed, several social workers felt that if they had the experience of previously using discretion under 'similar circumstances', then this generally increased their 'confidence' and therefore 'willingness' to employ discretion again when encountering a comparable discretionary space:

I know that I have been in that situation previously and used my discretion, so I have a confidence to do so again ... (Social Worker 1, Interview).

However, the wider evidence again suggested that it was less *whether* the social workers had experienced using discretion in similar scenarios, and more the *type* of experience encountered, that held the greatest influence upon their willingness. This finding emerged from more subtle accounts, where social workers explained that a 'positive' experience of using discretion in a similar decision-making context, increased their willingness to employ discretion; whereas conversely, a 'negative' experience reduced their willingness:

For example, if I have used my discretion in a similar situation and there was a positive result, then I think I would be more willing to use my discretion again. However, if that experience had been a negative

one, then I think that would leave me less willing to employ discretion next time ... (Social Worker 8, Interview).

As intimated here, the evidence suggested that the social workers constructed the type of experience encountered—either ‘positive’ or ‘negative’—according to the ‘outcomes’ which they associated with their past discretionary behaviour. For example, if a discretionary decision or action had, after the fact, been aligned with some benefit—especially to the service user but also the social worker—then the discretionary behaviour was constructed as a ‘positive experience’:

I remember being commended by other professionals for my use of discretion in a difficult meeting ... that experience meant a lot ... it would definitely lead me to use discretion again in a similar type of circumstance (Social Worker 3, Interview).

Alternatively, if the discretionary behaviour had, after the fact, been associated with some form of ‘cost’, then it tended to be constructed as a ‘negative experience’, and thus, to dissuade the social worker from employing their discretion again:

I wouldn’t spend my own money even if I thought that was what [the service user] needed at the time ... I’ve done it before ... but on that occasion it was a really negative experience ... I got in a pickle because that service user then expected me to give them money again ... When I didn’t, they made a complaint about me, and it had to be investigated ... because I’d broken the policy, I was given a formal warning (Social Worker 4, Interview).

This last account is noteworthy both on the basis that, in contrast to the general tendency of the group, the social worker was not willing to employ discretion in the entrepreneurial context identified; and because this unwillingness was associated with the ‘negative experience’ of being reprimanded for past discretionary behaviour within a similar discretionary context.

In a similar account, a social worker described her ‘reluctance’ to employ discretion in a *de jure* discretionary space, again in contrast to the general position of the group, and again based on a ‘negative outcome’ arising from past discretionary behaviour:

I’m generally pretty reluctant to use discretion in emergencies [as] ... previously I arranged for a child to stay at a family member’s house as we couldn’t locate his mum ... the child got an injury ... and mum threatened to sue the local authority ... There was an investigation ... I came out alright, but it has made me so fearful of using my discretion in those types of situations (Social Worker 5, Interview).

Ultimately, these last two accounts help to elucidate how past discretionary experiences could dissuade a social worker from choosing to employ discretion, even when this contrasted with the general tendency of the group.

Other personal influences

Throughout their testimonies, the social workers recognised the impact of specific ‘personal influences’ upon their willingness to employ discretion (Murphy, 2019). These were described as a series of factors drawn from the ‘personal’ rather than professional life, but which could impact upon their professional discretionary behaviour:

You must also consider those personal factors ... you know how experiences in your personal life influence your [discretionary] decision-making as a social worker (Social Worker 4, Interview).

These factors were an important consideration, especially as previous explanations for contrasting propensities to choose discretion have been limited to professional (Evans, 2013) and situational factors (Ellis, 2011, 2014). In this study, however, it was apparent that the ‘individual nature’ of these ‘personal influences’ meant that whilst two social workers could cite the same factor as influencing their willingness to employ discretion, that was not to say that this factor was interpreted, and, therefore, influenced their willingness in the same way (Murphy, 2019).

For example, an often-cited ‘personal influence’ was that of ‘parenthood’ or ‘of being a parent’. As one social worker explained, her ‘status as a mother’ had become a ‘prism’ through which she appraised, not only ‘the circumstances of the families that [she] work[ed] with’ but also the ‘discretionary spaces available’ to her. More so, it had become ‘one of the means with which [she] decide[d] whether to use discretion or not’:

It’s not only am I willing to use discretion as a social worker, but am I willing as a parent? (Social Worker 4, Interview).

This social worker explained that ‘as a parent’ she had ‘come to understand the potential long-term impact of certain decisions’, and aligned this with a general ‘reluctance’ to employ discretion:

Sometimes I won’t ... use discretion [even though] I do have the discretionary space ... for example ... whether a child can have contact with family members ... it’s just I could totally get those decisions wrong ... it could really damage a child (Social Worker 4, Interview).

Conversely, another social worker suggested that her own experiences of parenthood had increased her general willingness to employ discretion, including in discretionary spaces that were not formally granted to her:

In some situations I have thought to myself ‘oh God, that could be my child’ and I think, yeah, I chose to use my discretion because of that ... for example, spending my own money ... it all comes down to the influence of being a parent and thinking ‘I would want someone to do the same for my child’ (Social Worker 2, Interview).

The same social worker also cited her experiences of ‘childhood’ as an influence upon her willingness to employ discretion:

I am quite happy to use discretion generally I think ... it comes from my childhood ... I mean I grew up in a complicated home ... so I know first-hand how those things impact upon families ... It does allow me to understand about the [different] make-up of families [and] the complexity of family life ... and I think that that makes me more willing to use discretion ... (Social Worker 2, Interview).

Similarly, another social worker identified not only the ‘influence of childhood’, but more specifically, of being the recipient of social work services as a child, as an influence upon her willingness to employ discretion—more so than the type of discretionary space encountered:

I had a social worker when I was younger, and I learnt that most often it was them and not their manager, the IRO or the Guardian who knew the most about me ... However, my personal experience was that decisions were made about me by these people who didn’t know me, and they were often not good decisions ... I’ve taken those experiences into my own practice and I think that I choose whether I use discretion more on the basis of am I best placed to make a decision for a child, than whether my manager or [others] say that I can ... (Social Worker 14, Questionnaire).

On a similar basis, a colleague of this social worker aligned her experiences as an adoptive parent as having the ‘greatest influence’ upon her willingness to employ discretion:

I have adopted children and ... I think that experience has impacted upon whether I choose to use discretion ... for example, sometimes I think to myself, ‘what would my son want from his social worker here?’ The answer could be ‘to use their discretion’ and then that makes me more likely to [use discretion] ... the context of the decision is not the important issue ... (Social Worker 1, Questionnaire).

More broadly, these ‘personal influences’ were not limited to experiences of/from childhood and/or parenthood, but also included such things as one’s ‘religious faith’ and cultural disposition:

I think another factor ... are those religious or cultural influences ... In my culture the preference is for family problems to be resolved within the community, and traditionally that community is suspicious of social workers ... that is partly why I became a social worker, but I do wonder whether there is some part of me, where this still impacts upon my [willingness] to use discretion (Social Worker 16, Questionnaire).

In contrast, to this last account, another social worker explained that whilst her ‘culture’ was ‘important’ in her ‘personal life’, she was ‘determined’ not to allow the influence of this to impact upon her professional practice, including in her discretionary behaviour towards children and their families:

Whilst I am strongly influenced by my culture ... this is something which I don’t let impact my work with children. I think there is potential

for me to judge situations differently because of my religion, but I think it is important that I don't let those biases effect my use of discretion ... (Social Worker 15, Questionnaire).

Whilst this account again illustrates the propensity for 'personal' factors to influence individuals differently, it also highlights that ethical tension which is important to consider in discussions around choice within the discretionary space (Evans, 2013); namely, that bias can emerge (Lipsky, 2010). Whilst this forms part of the wider critique about the value of practitioner discretion within public service provision generally (see Molander, 2016), the emphasis here is less on the ethical implications of these influences, but more so, how they could explain the social worker's discretionary behaviour.

Ultimately, for the social workers in this study, those 'personal influences' were often aligned with whether they were willing to employ discretion. Furthermore, the variety of personal influences identified, and the different manifestations of these, help us to understand why, in a particular discretionary space, one social worker was willing to employ discretion, but another was not.

Discussion and conclusion

This research comprised a case study of a single statutory child protection team. The remit of the study did not require any consideration of other local authority child protection teams, and thus a limitation of the research is that it lacks a comparative element, meaning that the conclusions that can be made are (currently) limited to the research setting, but may resonate with experiences in other teams.

Another limitation is that the study's focus was largely limited to the views and experiences of the statutory social worker—with the local manager's contribution being confined to the focus group stage of the enquiry. As such, the study generally failed to consider how other stakeholders accounted for frontline discretion.

This notwithstanding, the study offers an important contribution to the knowledge area, addressing a notable gap in the literature, specifically in terms of how structural discretion is manifested in contemporary child protection. Furthermore, it provides empirical evidence, which can be conceived as useful in any future 'review of progress' (Munro, 2011b, p. 22) relative to the Munro Review findings and recommendations for reform.

Indeed, whilst a key message from the adult social work literature is the level of agency available to the social worker on encountering discretionary space, and that practitioners are able to choose whether or not, in those contexts, they employ discretion (Evans, 2010, 2013; Ellis, 2011, 2014), this has not been examined in the context of statutory children's provision. Furthermore, that a feature of a more 'child-centred' system,

according to the Munro Review (Munro, 2011b) was that on encountering a discretionary space, social workers would increasingly choose to employ their discretion, in the best interests of the individual child.

It is on this basis that this study set out to move beyond usual explorations of *whether* discretionary space exists for contemporary child protection social workers (e.g. Howe, 1986, 1991; Munro, 2005, 2009), but to also consider if, on encountering a discretionary space, these social workers would choose to employ their discretion, and indeed, what factors informed this choice.

The study has, in the opinion of the author, achieved these aims. Moreover, relative to whether the measure of 'child-centredness' endorsed by Munro (2011b) has been realised, the study suggests that the picture is mixed. That is because, for every example of social workers choosing to employ their discretion in the interests of the child (e.g. providing their own money for home fuel payments), there were others in which they were not, including times when by not doing so, it was acknowledged to be counter to the interests of the child (e.g. delaying 'emergency decisions' so as to consult with a manager). The study found that a good predictor of this was the type of discretionary space encountered, with social workers tending to choose to employ discretion in those spaces that were either formally (*de jure*) or informally (entrepreneurial) 'granted', but not in those that arose due to circumstance (*de facto*).

Here, the level of anxiety invoked by the type of discretionary space was important, as social workers generally saw discretion within the unsanctioned (*de facto*) space to be 'riskier', referencing a higher likelihood of being held 'individually accountable' (and by extension 'blamed') for negative consequences that might arise from their discretionary behaviour. Conversely, discretionary space that existed in a *de jure* or entrepreneurial sense, was considered 'less risky' on the basis that social workers associated it with either 'official' (*de jure*), or 'unofficial' (entrepreneurial) 'endorsement' by the social work manager. The implication was that this served as an 'informal contract' between manager and worker that the former would 'support', or advocate for the latter, if, in a future situation, others came to scrutinise the discretionary behaviour.

This is a significant finding, especially when considered against previous assertions that any discretionary space which is not formally sanctioned exposes the social worker to potential blame (e.g. Evans, 2016; Munro, 2009). Indeed, Evans (2016) argued that the manager benefits from the informally granted space in the sense that they are protected from accountability for a social worker's discretionary behaviour and because they are able to 'shift' the blame for any perceived fallibility in decision making/action-taking onto the social worker. However, the practitioners within this study stressed that their

willingness to employ discretion within the entrepreneurial space was on the understanding that managers would share accountability for discretionary behaviour and would not seek to shift the blame onto a social worker after the fact.

Any suspicion that a manager was not willing to acknowledge their endorsement of the entrepreneurial space was said to limit the social workers' propensity to employ their discretion, thereby rendering the informal space redundant. It was in these terms that the social workers felt that they had some power to compel managers to enter into an informal contract to support the social worker if their discretionary behaviour within the entrepreneurial space was later questioned, or else be left to resolve the political and human tensions inherent within public service provision (Lipsky, 2010) alone. The implication is that the social workers of this study were not the powerless or passive practitioners that some have purported them to be (e.g. Howe, 1986, 1991). However, it is also that it is as much the level of risk associated with the discretionary space, as it is the type of space encountered, which informs a social worker's willingness to choose discretion.

Ultimately, whilst in the context of the *de facto* space, the social workers' account held hallmarks of the Munro Review (Munro, 2010) finding that practitioners were choosing not to employ discretion on the basis that it had become a 'risky' option in the child protection system's 'culture of blame' (p. 38), this was not consistently the case with either the *de jure* or entrepreneurial spaces. This highlights a flaw in Munro's and others (e.g. Howe, 1986, 1991; Baldwin, 2000; Wastell et al., 2010) analysis—namely, the failure to distinguish between the different types of discretionary space available and the implications of each. It also emphasises the importance of future researchers moving beyond reductionist notions of discretion, by ensuring that they incorporate into their enquiry an understanding of the different types of discretionary space available to the practitioner.

Another significant finding was the range of factors, beyond the type of discretionary space available (or the associated risk assigned to that space), said to influence whether a social worker chose to employ their discretion. These factors were understood to be particularly relevant in explaining those exceptions to the general tendencies (e.g. to be unwilling to employ discretion in the *de jure* space, but willing in the *de facto* space), and included such things as the social worker's knowledge of the child; the experience of using discretion in similar decision-making scenarios; and the impact of influences derived from the 'personal' rather than the 'professional' life.

The pertinent point that arises here is that at any given time, a social worker can be affected by myriad factors, and the unique nature of how these interact and are interpreted—and the impact that they have on the individual—make it difficult to know with any degree of certainty,

whether a social worker will choose to employ their discretion within a discretionary space. As one participant observed:

You can never truly say [whether a social worker] will definitely use discretion ... only that it is likely or unlikely ... (Social Worker 8, Interview).

Yet, the finding that discretionary behaviour is more likely in the ‘granted’ or ‘endorsed’ space, suggests that if managers and policymakers can increase the opportunity for sanctioned discretionary space, then social workers may more consistently employ discretion in the interests of the individual child. This then would allow for greater innovation and flexibility at the frontline, enabling the system to become more inclusive of children whose needs do not fit neatly within predefined cohorts, whilst concurrently decreasing the likelihood that specific children will slip through the proverbial net of protection and of tragedies occurring.

Furthermore, although the formality of the sanctioned space did not generally impact on the social workers’ preparedness to employ discretion, the wider literature would suggest that increasing *formally* sanctioned discretionary space could further increase the likelihood of social worker discretion in the interest of the child. Indeed, the implication is that rather than settling for ‘entrepreneurial’ discretion, managers and policymakers should strive to ensure that ‘de jure’ discretionary space is better recognised in formal policy documents. This could further reassure practitioners that they would not necessarily be blamed for discretionary behaviour that was legitimately undertaken with the aim of benefiting an individual child.

Finally, in terms of research, the study points to the need for additional follow-up enquiry, to explore whether similar tendencies are presenting themselves in child protection teams nationally, and indeed, how other stakeholders perceive the current discretionary space of the child protection social worker. This would enable more informed conclusions about the realisation of this important element of [Munro’s \(2011b\)](#) ‘child-centred’ and ‘effective’ child protection system —better identifying, and challenging barriers to discretion and improving the system for all children, who might, during their childhood, have cause to access it.

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